

Message Text

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COME-00 DODE-00 DOE-15 H-02 INR-10 INT-05 L-03
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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA

UNCLAS STATE 076922

E.O. 11652: N/A

TAGS: ENRG, CA

SUBJECT: ALASKA GAS PIPELINE--RESPONSE TO DINGELL/BROWN

REFERENCE: STATE 57439

FOLLOWING IS TEXT OF STATE DEPARTMENT RESPONSE TO DINGELL
AND CLARENCE BROWN LETTER OF FEBRUARY 21 TRANSMITTED IN
REFTEL. THE SAME RESPONSE WAS SENT TO BOTH CONGRESSMEN
ON MARCH 16. AN INTERIM RESPONSE WAS SENT ON MARCH 6.

BEGIN TEXT:

DEAR MR. BROWN:

THIS IS A FURTHER RESPONSE TO YOUR LETTER TO SECRETARY
VANCE OF FEBRUARY 21, CONCERNING RECENT DEVELOPMENTS IN
CANADA WHICH AFFECT CONSTRUCTION OF THE TRANSPORTATION
SYSTEM FOR ALASKAN NATURAL GAS. I AM SENDING A SIMILAR
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RESPONSE TO MR. BROWN.

THE DEPARTMENTS OF STATE AND ENERGY HAVE BEEN WORKING
TOGETHER CLOSELY ON THE ALASKAN GAS PROJECT. I WILL

ADDRESS THE ISSUES YOU RAISED CONCERNING CANADIAN COMPLI-
ANCE WITH THE AGREEMENT ON PRINCIPLES APPLICABLE TO A
NORTHERN NATURAL GAS PIPELINE AND THE U.S.-CANADA
TRANSIT PIPELINE TREATY. THE DEPARTMENT OF ENERGY, IN
RESPONSE TO YOUR LETTER TO SECRETARY SCHLESINGER, WILL

ADDRESS THE TECHNICAL ISSUES INVOLVED IN SELECTION OF
THE 56-INCH DIAMETER PIPE.

IN YOUR JOINT LETTER YOU:

1) ASK FOR A RECORD OF THE CONSULTATIONS BETWEEN THE U.S.
AND CANADA BEFORE DECISIONS WERE TAKEN ON THE ISSUES
DESCRIBED BELOW;

2) SUGGEST THAT PROVISIONS IN THE PIPELINE ENABLING
LEGISLATION PROPOSED BY THE GOVERNMENT OF CANADA "MAXI-
MIZING" THE USE OF CANADIAN GOODS AND SERVICES IN THE
PORTION OF THE PIPELINE TO BE CONSTRUCTED IN CANADA ARE
INCONSISTENT WITH PROVISIONS OF THE U.S.-CANADA AGREE-
MENT ON PRINCIPLES; AND

3) QUESTION WHETHER PROVISIONS OF THE CANADIAN LEGISLATION
IMPOSING THE COSTS OF GOVERNMENT ADMINISTRATION AND
OVERSIGHT ON THE PIPELINE ARE CONSISTENT WITH PROVISIONS
OF BOTH THE AGREEMENT ON PRINCIPLES AND THE TRANSIT
PIPELINE TREATY WHICH ASSURE NON-DISCRIMINATORY TREATMENT.

SINCE THE AGREEMENT ON PRINCIPLES WAS SIGNED LAST
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SEPTEMBER, CONSULTATIONS WITH THE GOVERNMENT OF CANADA
HAVE TAKEN PLACE FREQUENTLY. CONSULTATIONS TOOK PLACE
BEFORE CANADIAN IMPLEMENTING LEGISLATION, BILL C-25, WAS
INTRODUCED IN THE HOUSE OF COMMONS, AND BEFORE THE
CANADIAN NATIONAL ENERGY BOARD (NEB) ANNOUNCED ITS
PREFERENCE FOR A 56-INCH PIPE DIAMETER.

DURING THE MONTHS PRECEDING THE INTRODUCTION OF BILL C-25,
CANADIAN OFFICIALS ORALLY BRIEFED U.S. OFFICIALS ON ITS
PROVISIONS AND WE EXPRESSED OUR OPINION ON CERTAIN ASPECTS
OF THE PROPOSED LEGISLATION. WE DID NOT, HOWEVER, REVIEW
THE TEXT OF THE BILL OR PARTICIPATE IN THE DRAFTING.
PREPARATION OF SUCH LEGISLATION IS AN INTERNAL CANADIAN
MATTER, AND THE CANADIAN GOVERNMENT CONSIDERED THAT FORMAL
REVIEW BY THE UNITED STATES SHOULD NOT PRECEDE SUBMISSION
OF THE BILL TO THE PARLIAMENT.

CONSULTATIONS ON PIPE DIAMETER TOOK PLACE WITHIN THE
CONTEXT OF THE U.S.-CANADA TECHNICAL STUDY GROUP, AS
SPECIFIED IN PARAGRAPH 10 OF THE AGREEMENT ON PRINCIPLES.
THE DEPARTMENT OF ENERGY WILL PROVIDE YOU WITH THE DETAILS
OF THOSE CONSULTATIONS.

THE CANADIAN GOVERNMENT HAS STATED THAT ITS DECISION IN
FAVOR OF A 56-INCH PIPE SIZE WAS BASED ON TECHNICAL
CONSIDERATIONS. THE DECISION WAS TAKEN ONLY AFTER CON-
SULTATIONS WITH THE U.S. GOVERNMENT. IT IS OUR VIEW THAT

THE DECISION IS CONSISTENT WITH PARAGRAPH 10(A) OF THE AGREEMENT WHICH ACCORDS TO CANADA THE ULTIMATE RESPONSIBILITY FOR SELECTING PIPE SIZE ON SECTIONS OF THE PIPELINE TO BE CONSTRUCTED IN CANADA.

ONE OF THE CANADIAN COMPANIES CAPABLE OF MANUFACTURING 56-INCH PIPE IS THE INTERPROVINCIAL STEEL COMPANY (IPSCO). IT IS OUR UNDERSTANDING THAT 20 OF IPSCO'S VOTING SHARES ARE HELD BY STEEL ALBERTA. THE OWNERSHIP OF STEEL
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ALBERTA IS SHARED EQUALLY BY ALBERTA GAS TRUNK LINE (AGTL), AND THE ALBERTA ENERGY COMPANY, LTD. AGTL HOLDS A 40 INTEREST IN FOOTHILLS (YUKON). THESE CORPORATE RELATIONSHIPS INDICATE THAT FOOTHILLS (YUKON) HOLDS A 4 INTEREST IN IPSCO.

THE IMPLEMENTING LEGISLATION FOR THE AGREEMENT SUBMITTED TO THE CANADIAN PARLIMENT DOES, AS YOU POINT OUT PROVIDE FOR THE "MAXIMIZATION" OF INPUTS OF CANADIAN GOODS AND SERVICES FOR THE CONSTRUCTION OF THE PIPELINE. HOWEVER, WE DO NOT BELIEVE THIS LEGISLATIVE OBJECTIVE IS NECESSARILY INCONSISTENT WITH THE CANADIAN GOVERNMENT'S UNDERTAKING IN THE AGREEMENT TO ENSURE THAT THE SUPPLY OF GOODS AND SERVICES TO THE PIPELINE WILL BE ON GENERALLY COMPETITIVE TERMS. THE AGREEMENT DOES NOT ESTABLISH SPECIFIC LEVELS OF EITHER U.S. OR CANADIAN CONTENT FOR VARIOUS SECTIONS OF THE PIPELINE. THE PROPOSED LEGISLATION, IN OUR VIEW, DOES NO MORE THAN GIVE EFFECT TO NORMAL CANADIAN REGULATORY PRACTICE OF FOSTERING CANADIAN PARTICIPATION IN CANADIAN PROJECTS.

THE CANADIAN NATIONAL ENERGY BOARD ACT OF 1974 REQUIRES THE NEB, IN CONSIDERING APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, TO TAKE ACCOUNT OF "...THE METHODS OF FINANCING THE LINE AND THE EXTENT TO WHICH CANADIANS WILL HAVE AN OPPORTUNITY OF PARTICIPATING IN THE FINANCING, ENGINEERING AND CONSTRUCTION OF THE LINE;...".

CONSEQUENTLY, NEB'S RULES OF PRACTICE AND PROCEDURE, PUBLISHED IN 1975, REQUIRE AN APPLICANT FOR A CERTIFICATE FOR A NATURAL GAS PIPELINE TO PROVIDE "...A DESCRIPTION OF THE CANADIAN CONTENT OF THE PROPOSED PIPE LINE...".
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THE RULES INCLUDE IN THE DEFINITION OF CANADIAN CONTENT ANY MATERIALS, SUPPLIES, SERVICES, OR FINANCIAL ARRANGEMENTS OBTAINED IN CANADA OR FROM A PERSON WHO IS USUALLY A RESIDENT OF CANADA.

INFORMATION CONCERNING CANADIAN CONTENT HAS ROUTINELY BEEN EXAMINED IN THE COURSE OF THE NEB CERTIFICATION HEARINGS PROCESS, AND COMPLIANCE WITH THE APPLICANT'S UNDERTAKINGS WITH RESPECT TO CANADIAN CONTENT HAS BEEN ENFORCED BY THE NEB. PROCEDURES FOR MEASURING SUCCESS WITH RESPECT TO ACHIEVING CANADIAN CONTENT OBJECTIVES HAVE BEEN INFORMAL AND LARGELY LEFT TO THE DISCRETION OF THE NEB.

IN ACCORDANCE WITH ESTABLISHED PRACTICE, FOOTHILLS (YUKON) PIPE LINES SUBMITTED TO THE NEB ITS UNDERTAKING WITH RESPECT TO CANADIAN CONTENT AS PART OF ITS APPLICATION FOR CERTIFICATION TO BUILD THE CANADIAN SECTIONS OF THE ALASKA GAS TRANSPORTATION SYSTEM. THE CANADIAN CONTENT CONDITIONS SET FORTH IN BILL C-25 ARE DESIGNED TO ASSURE THAT FOOTHILLS (YUKON) CARRIES OUT THIS UNDERTAKING. HOWEVER, THE PROPOSED LEGISLATIVE CONDITIONS DO NOT ON THEIR FACE GO BEYOND THE ESTABLISHED PRACTICES REQUIRED BY THE NATIONAL ENERGY BOARD ACT OF 1974, AND THE NEB'S RULES OF PRACTICE AND PROCEDURE OF 1975.

IN A STATEMENT MADE BEFORE THE HOUSE OF COMMONS ON FEBRUARY 13, CANADIAN DEPUTY PRIME MINISTER ALLAN J. MACEACHEN SAID THAT IT WAS NOT HIS GOVERNMENT'S INTENTION TO GUARANTEE THAT A CERTAIN PERCENTAGE OF MATERIALS FOR THE PIPELINE BE OBTAINED FROM CANADIAN SUPPLIERS. MR. MACEACHEN ACKNOWLEDGED THAT SUCH GUARANTEES WOULD VIOLATE THE GENERAL AGREEMENT ON TRADE AND TARRIFFS. FURTHERMORE, MR. MACEACHEN SAID, CANADIAN COMPANIES SEEK NO MORE THAN THE UNDERLYING ASSURANCES PROVIDED FOR IN THE LEGISLATION - NAMELY, THAT THEY HAVE A FAIR AND UNCLASSIFIED

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COMPETITIVE OPPORTUNITY TO PARTICIPATE IN THE SUPPLY OF GOODS AND SERVICES FOR THE PIPELINE.

CANADIAN IMPLEMENTATION OF THIS ASPECT OF THEIR LEGISLATION WILL BE THE SUBJECT OF CAREFUL SCRUTINY IN THE

FUTURE, AND WE WILL, OF COURSE, PROMPTLY SEEK CONSULTATIONS WITH CANADA, IN ACCORDANCE WITH ARTICLE 7(B) OF THE AGREEMENT, SHOULD IT APPEAR AT ANY TIME THAT CONTRACTS FOR GOODS AND SERVICES ARE BEING CONCLUDED ON OTHER THAN COMPETITIVE TERMS AS THE AGREEMENT REQUIRES.

FINALLY, WE ALSO HAVE NOTED THE PROVISIONS IN THE CANADIAN LEGISLATION WHICH WOULD PLACE THE COSTS OF OPERATING THE NORTHERN PIPELINE AGENCY ON THE PIPELINE. WE WILL BE DISCUSSING THIS ASPECT OF THE LEGISLATION WITH THE CANADIAN AUTHORITIES.

WE HAVE DISCUSSED THE MATTERS INVOLVED IN THIS LETTER WITH THE GOVERNMENT OF CANADA, WHICH HAS CONFIRMED ITS DETERMINATION TO MEET BOTH THE LETTER AND SPIRIT OF ITS OBLIGATION UNDER BOTH THE AGREEMENT AND THE TRANSIT PIPELINE TREATY, AND TO CONTINUE THE CLOSE COOPERATION REQUIRED TO MAKE THE PIPELINE PROJECT A FEASIBLE ONE.

SINCERELY,

DOUGLAS J. BENNET, JR.
ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

END TEXT OF LETTER.

FOLLOWING IS TEXT OF FERC RESPONSE TO DINGELL/BROWN LETTER
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TO SCHLESINGER TRANSMITTED IN REFTEL. FERC RESPONSE WAS DATED MARCH 8. FOOTNOTES ARE INDICATED BY () AND ARE INCLUDED AT END OF LETTER.

BEGIN TEXT OF LETTER:

GENTLEMEN:

SECRETARY SCHLESINGER REQUESTED THAT I RESPOND TO THE IMPORTANT ISSUES YOU RAISED IN YOUR LETTER TO HIM ON FEBRUARY 22.

YOUR POINTS ABOUT THE "CANADIAN CONTENT" PROVISIONS OF THE NORTHERN PIPELINE LEGISLATION CURRENTLY UNDER CONSIDERATION BY THE CANADIAN HOUSE OF COMMONS ARE BEING ADDRESSED BY THE STATE DEPARTMENT IN RESPONSE TO YOUR LETTER TO

SECRETARY VANCE DATED FEBRUARY 21, 1978. AS EXPLAINED IN THAT REPLY, THE CANADIAN CONTENT DISCUSSION SHOULD BE EVALUATED IN THE CONTEXT OF THE FOLLOWING CONSIDERATIONS:

1) PRE-EXISTING NATIONAL ENERGY BOARD OF CANADA (NEB) RULES OF PROCEDURE AND PRACTICE CALL FOR THE SUBMISSION OF EVIDENCE AND UNDERTAKINGS WITH RESPECT TO CANADIAN CONTENT; AND

2) IN ORDER TO ALLOW THE PASSAGE OF U.S. GAS ACROSS CANADIAN TERRITORY, THE NEB, AND SUBSEQUENTLY THE FULL CANADIAN FEDERAL GOVERNMENT, FELT IT NECESSARY TO FORMALIZE AND REITERATE PROCEDURES DESIGNED TO ENSURE THAT CANADIAN FIRMS HAVE AN OPPORTUNITY TO COMPETE FOR THE SUPPLY OF GOODS AND SERVICES TO THE PIPELINES.

IN THIS REGARD, WE AGREE WITH THE DEPARTMENT OF STATE'S ASSESSMENT THAT THE CANADIAN CONTENT CONDITIONS ATTACHED

TO THE CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
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ISSUED BY CANADIAN BILL C-25 ARE A REITERATION OF NORMAL REGULATORY PRACTICE AND ARE NOT INCONSISTENT WITH OUR UNDERSTANDINGS AND AGREEMENTS WITH THE CANADIAN GOVERNMENT. (1) HOWEVER, IF THE U.S. CONSUMER COSTS ATTRIBUTABLE TO THIS PRACTICE BECOME EXCESSIVE AND UNNECESSARY, FINAL CERTIFICATION OF THE TARIFFS COULD BE WITHHELD.

THE FUNDAMENTAL ISSUE IN THE CANADIAN CONTENT QUESTION, THAT OF THE DISTRIBUTION OF THE ECONOMIC BENEFITS WHICH WILL FLOW FROM IMPLEMENTATION OF THE PROJECT, IS ONE THAT THE FEDERAL POWER COMMISSION, THE PRESIDENT, AND SUBSEQUENTLY THE CONGRESS, FACED IN THE COURSE OF THE PROCESS ESTABLISHED BY THE ALASKA NATURAL GAS TRANSPORTATION ACT. THE EL PASO PROJECT WAS ACKNOWLEDGED BY VIRTUALLY ALL ANALYSTS TO INVOLVE HIGHER DIRECT CAPITAL EXPENDITURES IN THE U.S., AND TO CREATE MORE JOBS FOR U.S. WORKERS, THAN EITHER OF THE TRANS-CANADA PROPOSALS. (2) THIS ASPECT OF THE EL PASO PROJECT MADE THE PRESIDENT'S CHOICE AMONG THE COMPETING APPLICATIONS ALL THE MORE DIFFICULT. ALTHOUGH THE CONGRESS GAVE CONSIDERABLE ATTENTION IN COMMITTEE AND IN FLOOR DEBATES TO THE CAPITAL EXPENDITURE AND EMPLOYMENT ADVANTAGES OF THE EL PASO PROPOSAL, CONGRESSIONAL RATIFICATION OF THE PRESIDENT'S DECISION SERVED TO CONFIRM THE FINDING THAT THIS RELATIVE DISADVANTAGE OF A TRANS-CANADA PROJECT WAS OUTWEIGHED BY CERTAIN OTHER ADVANTAGES, AS ENUMERATED IN THE DECISION.

THE SECOND CONCERN YOU RAISED WAS REGARDING THE NEB DECISION TO REJECT THE 48-INCH HIGH-PRESSURE PIPE FOR THE SEGMENT OF THE SYSTEM BETWEEN WHITEHORSE, IN THE YUKON TERRITORY, AND CAROLINE JUNCTION, ALBERTA. THE NEB INSTEAD CONCLUDED THAT OUR SECOND CHOICE, A 56-INCH 1080 SPIG DELIVERY SYSTEM, WAS SUPERIOR. I DO NOT PROPOSE HERE
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TO DEFEND A DECISION WITH WHICH I DISAGREE, BUT THE NEB CHOICE WAS NOT SURPRISING. IT BECAME CLEAR FROM MEETINGS OF U.S. AND CANADIAN TECHNICAL REPRESENTATIVES HELD IN NOVEMBER AND DECEMBER OF 1977 THAT TO PURSUE FULLY THE TESTING PROGRAM CONTEMPLATED BY THE AGREEMENT ON PRINCIPLES WOULD INVOLVE DELAYING THE PROJECT FOR A PERIOD WHICH COULD BE AS LONG AS TWO YEARS. (3) BECAUSE OF FREQUENTLY EXPRESSED RESERVATIONS ON THE PART OF THE CANADIAN GOVERNMENT AND PRIVATE PROJECT SPONSORS ABOUT THE SAFETY AND RELIABILITY OF THE 48-INCH HIGH-PRESSURE SYSTEM, WHICH WERE BASED ON AN NEB HEARING RECORD WHICH I MUST CONCEDE WAS MORE EXTENSIVE ON THIS POINT THAN THAT BEFORE THE FEDERAL

POWER COMMISSION (FPC), IT IS NOT AT ALL CLEAR THAT CANADA WOULD HAVE ACCEPTED THE 48-INCH HIGH-PRESSURE SYSTEM EVEN AFTER THE TESTING PROGRAM. ALTHOUGH THE U.S. TECHNICAL GROUP DID NOT SHARE THESE RESERVATIONS, AND FAVORED INSTALLATION OF THE 48-INCH HIGH-PRESSURE SYSTEM, WE WERE UNSUCCESSFUL IN PERSUADING THE CANADIAN SIDE TO SELECT IT.

I HAVE ATTACHED A COPY OF THE MATERIALS WE SUBMITTED TO THE NEB FOR ITS CONSIDERATION IN ARRIVING AT A DECISION ON THE PIPE SIZE QUESTION. (4) THE TECHNICAL REPORT INCLUDED THEREIN CHRONICLES THE MEETINGS HELD BETWEEN U.S. AND CANADIAN REPRESENTATIVES IN EXPLORING THIS QUESTION. SINCE IT WAS POSSIBLE THAT CANADA WOULD SELECT A LARGER DIAMETER, LOWER PRESSURE PIPE, IT WAS IN THE COURSE OF THESE MEETINGS THAT THE 56-INCH ALTERNATIVE TO THE PREVIOUSLY DISCUSSED 54-INCH PROPOSAL WAS DEVELOPED. WE BELIEVE THAT WE CONVINCED THE CANADIAN SIDE OF THE SUPERIORITY OF THE 56-INCH SYSTEM OVER THE 54-INCH, AND MY LETTER TO CHAIRMAN STABBACK EXPRESSED OUR CONDITIONAL (5) WILLINGNESS TO ACCEPT THE 56-INCH SYSTEM IF CANADA WOULD NOT SANCTION THE 48-INCH HIGH-PRESSURE SYSTEM. IN SHORT, WHILE I DO NOT HAIL THE CANADIAN DECISION, I RECOGNIZE THAT THE AGREEMENT ON PRINCIPLES SPECIFICALLY STATED THAT THE DECISION RELATING TO PIPELINE SPECIFICATIONS REMAINED UNCLASSIFIED

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THE RESPONSIBILITY OF THE APPROPRIATE REGULATORY AUTHORITIES (6), AND CONCEDE IT TO BE PERMITTED THEREBY.

YOUR LETTER ALSO NOTES THAT ALTHOUGH NO U.S. MANUFACTURER PRESENTLY HAS THE CAPABILITY TO PRODUCE 56-INCH PIPE, OTHER COUNTRIES, SUCH AS JAPAN AND GERMANY, DO. WE ARE INFORMED

THAT, BECAUSE THERE ARE OTHER SUPPLIERS OF THIS PIPE, THE LIBERAL PARTY GOVERNMENT IN CANADA HAS COME UNDER CONSIDERABLE PRESSURE BY THE OPPOSITION PARTIES TO GUARANTEE THAT THE PIPE FOR THE PROJECT WILL BE MADE BY CANADIAN FIRMS. WE ARE PLEASED TO NOTE THAT THE CANADIAN GOVERNMENT HAS RESISTED THIS PRESSURE ON THE GROUNDS THAT:

- 1) SUCH A GUARANTEE WOULD ONLY SERVE TO INCREASE COSTS;
- 2) SUCH A GUARANTEE WOULD BE IN CLEAR VIOLATION OF CANADA'S UNDERTAKINGS UNDER THE GENERAL AGREEMENT ON TARIFFS AND TRADE; AND
- 3) SUCH A GUARANTEE WOULD BE INCONSISTENT WITH SECTION 7 OF THE AGREEMENT ON PRINCIPLES WITH THE U.S., WHICH CALLS FOR SUPPLY OF GOODS AND SERVICES ON "GENERALLY COMPETITIVE TERMS."

I HAVE ATTACHED A COPY OF THE REMARKS OF DEPUTY PRIME

MINISTER ALLAN MACEACHEN BEFORE THE HOUSE OF COMMONS ON THE OCCASION OF THE SECOND READING OF THE NORTHERN PIPE-LINE BILL.(7) HE MAKES THESE AND OTHER POINTS WITH RESPECT TO CANADIAN CONTENT ON PAGES 9 THROUGH 12 OF HIS STATEMENT.

WE HAD RAISED TO THE CANADIAN GOVERNMENT REPRESENTATIVES UNCLASSIFIED

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THE QUESTION OF WHETHER THERE ARE PHYSICAL CAPACITY CONSTRAINTS ON THEIR ABILITY TO ACHIEVE THE CANADIAN COMPANIES' STATED CANADIAN CONTENT OBJECTIVES. (8) IN THE REMARKS MENTIONED ABOVE, DEPUTY PRIME MINISTER MACEACHEN POINTED OUT THAT FOOTHILLS' INTENTIONS WITH RESPECT TO CANADIAN CONTENT ARE OBJECTIVES, BUT COULD NOT BE A GUARANTEE. (9) WE STRONGLY BELIEVE THAT THE PROJECT MUST NOT BE SLOWED DOWN TO KEEP THE SUPPLY OF GOODS AND SERVICES WITHIN CANADA IF CAPACITY CONSTRAINTS LIMIT THE ABILITY OF CANADIAN FIRMS TO SUPPLY GOODS AND SERVICES TO THE PROJECT.

IN VIEW OF PUBLIC STATEMENTS OF THIS NATURE, WE DO NOT BELIEVE THE SELECTION OF 56-INCH PIPE BETWEEN DAWSON AND WHITEHORSE IS INCONSISTENT WITH THE TERMS OF SECTION 7 OF THE AGREEMENT ON PRINCIPLES BETWEEN THE U.S. AND CANADA.(10) IT SHOULD BE STRESSED THAT THE 56-INCH SYSTEM IS CLEARLY SUPERIOR TO THE 54-INCH SYSTEM. WE BELIEVE THAT THE LATTER, IN LIGHT OF THE ADVANTAGES OF THE 56-INCH SIZE, SHOULD NO LONGER BE REGARDED AS A VIABLE ALTERNATIVE.

ON THE MATTER OF CONSULTATIONS THAT HAVE OCCURRED BETWEEN

THE U.S. AND CANADA REGARDING THE PIPE SIZE DECISION, THE TECHNICAL REPORT ATTACHED TO MY LETTER TO NEB CHAIRMAN STABBACK HAS WHAT I BELIEVE TO BE A COMPLETE LIST OF CONSULTATIONS ON THAT SUBJECT, WITH THE EXCEPTION OF THE FOLLOWING MEETINGS:

1. JANUARY 26, 1978; U.S. AMBASSADOR TO CANADA THOMAS O. ENDERS MET WITH NORTHERN PIPELINE COMMISSIONER BASIL ROBINSON AND NEB CHAIRMAN JACK STABBACK TO DISCUSS THE PRELIMINARY FINDINGS OF THE U.S. STUDY TEAM ON THE PIPE SIZE QUESTION AND TO DISCUSS TIMING OF THE NEB DECISION. AS A RESULT OF THIS MEETING, UNCLASSIFIED

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THE NEB DECISION WAS DELAYED FOR ONE WEEK.

2. FEBRUARY 9, 1978; ALASKA GAS PROJECT OFFICE

DIRECTOR JOHN B. ADGER MET IN OTTAWA WITH THE NORTHERN PIPELINE COMMISSIONER, NEB MEMBERS AND REPRESENTATIVES OF OTHER CANADIAN GOVERNMENT AGENCIES TO DISCUSS (1) THE RESPECTIVE U.S. AND CANADIAN TIME-TABLES FOR IMPLEMENTATION OF THE JOINT PROJECT, (2) POSSIBLE APPROACHES TO THE COMPLICATED PROBLEMS ASSOCIATED WITH USE OF ALBERTA "BUBBLE" GAS TO FACILITATE PHASING CONSTRUCTION OF THE PROJECT, AND (3) ADDITIONAL DETAILS OF THE U.S. ANALYSIS WITH RESPECT TO THE PIPE SIZE QUESTION.

U.S. OFFICIALS INVOLVED IN THE CONSULTATIONS REPORT THAT THE CANADIAN GOVERNMENT HAS BEEN RECEPTIVE TO OUR VIEWS. WHILE THERE HAVE BEEN AND WILL CONTINUE TO BE SOME DISAGREEMENTS WITH CANADA, THERE APPEAR TO BE NO PROBLEMS THAT ARE NOT SUSCEPTIBLE TO RESOLUTION THROUGH THE CONTEMPLATED PROCESSES. INFORMAL COMMUNICATIONS AND DATA EXCHANGES BETWEEN FEDERAL ENERGY REGULATORY COMMISSION (FERC) AND NEB HAVE BEEN FREQUENT AND HELPFUL. (11) THE REGULATORY INTERFACE MUST CONTINUE THROUGH THE LIFE OF THE PROJECT. I BELIEVE THAT ISSUES WHICH DEVELOP BETWEEN THE TWO REGULATORY BODIES WILL BE PROFESSIONALLY AND FAIRLY RESOLVED.

CONSULTATIONS ON OTHER MATTERS HAVE BEEN CONDUCTED LARGELY BY THE STATE DEPARTMENT. I UNDERSTAND THAT DETAILS OF THOSE CONSULTATIONS WILL BE PROVIDED YOU IN RESPONSE TO YOUR LETTER TO SECRETARY VANCE.
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YOU FURTHER EXPRESS YOUR CONCERN, WHICH WE SHARE, THAT U.S. AUTHORITIES SHOULD HAVE ACCESS TO DATA, INFORMATION, AND MATERIALS SUFFICIENT TO MAKE A DETERMINATION THAT THE COMPETITIVENESS TEST IN SECTION 7 OF THE AGREEMENT IS INDEED BEING MET. THIS IS OF CONCERN BECAUSE THE FERC MUST APPROVE THE PASSTHROUGH TO U.S. CONSUMERS OF TRANSPORTATION CHARGES FOR THE CANADIAN SEGMENTS OF THE SYSTEM WHICH ARE DERIVED FROM CAPITAL COSTS. THE AMOUNT OF CAPITAL COSTS WILL, IN TURN, BE SUBSTANTIALLY INFLUENCED BY THE ADEQUACY OF COMPETITION FOR THE SUPPLY OF GOODS AND SERVICES TO THE PROJECT. THEREFORE, IN CONSIDERING PROPOSED TARIFFS, THE FERC WILL HAVE TO SATISFY ITSELF THAT THE PROCEDURES INVOKED FOR THE PURPOSE OF PROTECTING THE U.S. CONSUMER FROM UNCOMPETITIVE PROCUREMENT ARE ADEQUATE.

OUR CONCERN ON THIS POINT HAS BEEN CONVEYED TO THE CANADIAN GOVERNMENT. FINALIZATION OF CANADIAN PROCEDURES FOR IMPLEMENTATION OF THE TERMS AND CONDITIONS WITH RESPECT TO CONTRACT REVIEW AND CANADIAN CONTENT HAS NOT OCCURRED. CANADIAN OFFICIALS HAVE, HOWEVER, INDICATED A

WILLINGNESS TO WORK WITH US IN DEVELOPING THESE PROCEDURES.
WE WILL BE PLEASED TO WORK WITH YOUR STAFF IN ASSURING
THAT THE PROCEDURES WHICH ARE DEVELOPED OFFER ADEQUATE
COMPETITIVE OPPORTUNITIES FOR U.S. BUSINESSES AND PROVIDE
ADEQUATE PROTECTION FOR THE U.S. CONSUMER.

THANK YOU FOR YOUR LETTER. I HOPE YOU FIND THESE ANSWERS
RESPONSIVE. PLEASE DO NOT HESITATE TO CONTACT ME IF WE
CAN BE OF ANY FURTHER ASSISTANCE IN THIS MATTER.

SINCERELY,

DON S. SMITH
VICE CHAIRMAN
FEDERAL ENERGY REGULATORY COMMISSION
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END TEXT OF LETTER

BEGIN TEXT OF FOOTNOTES:

(1) IT IS CLEAR FROM THE TENOR OF THE AGREEMENT ON
PRINCIPLES THAT THE RESPECTIVE REGULATORY AGENCIES ARE
REQUIRED TO ACT ACCORDING TO "ACCEPTED REGULATORY PRAC-
TICE," PROVIDED SUCH ACTION IS NOT MANIFESTLY INCONSISTENT
WITH THE TERMS OF THE AGREEMENT ON PRINCIPLES, WHICH IS
NOT THE CASE HERE. (SEE SECTIONS 11(B) (I) AND 12(III) OF

THE AGREEMENT ON PRINCIPLES.)

(2) SEE, FOR EXAMPLE, "NATIONAL ECONOMIC IMPACT OF ALASKA
NATURAL GAS TRANSPORTATION SYSTEM - WORKING GROUP REPORT";
FEA, COMMERCE, INTERIOR, LABOR; JUNE 30, 1977; PP. 40-47.

(3) THE NEB EXPERTS HAD PROJECTED A TWO-YEAR PERIOD.
DOT ANALYSTS ADMITTED THERE WOULD BE SOME DELAY, BUT NOT
NECESSARILY TWO FULL YEARS.

(4) SEE APPENDIX I.

(5) THE FEBRUARY 13, 1978, LETTER TO CHAIRMAN STABBACK
ASSERTED THAT "... A CANADIAN GOVERNMENT DECISION TO
PROCEED WITH ANY OF THE HIGHER-CAPACITY SYSTEM ALTERNATIVES
OTHER THAN LOOPING SHOULD BE ACCOMPANIED BY FIRM INDICATION
OF THE CANADIAN GOVERNMENTS'S INTENTION TO BUILD THE
DEMPSTER LATERAL CONNECTION TO THE MACKENZIE DELTA RESERVES
BY 1990." (P. 4) IT WENT ON TO CONCLUDE THAT "(I)F THE
GOVERNMENT OF CANADA'S CONCERNS REGARDING A HIGHER OPER-
ATING PRESSURE ARE NOT ASSUAGED, THEN WE ARE PREPARED TO
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ACCEPT THE 56-INCH 1080 PSIG ALTERNATIVE SYSTEM IF ACCOMPANIED BY A FIRM INDICATION OF INTENT TO BUILD THE DEMPSTER LATERAL BY 1990." (P. 5) THE NEB'S STATEMENT OF POSITION REGARDING SELECTION OF PIPE FOR THE WHITEHORSE, YUKON TO CAROLINE, ALBERTA SEGMENT OF THE FOOTHILLS PIPE-LINE SYSTEM (ATTACHED AS APPENDIX II) PROVIDED THE ASSURANCE SOUGHT BY STATING, AT P. 7:

"AS INDICATED IN THE UNITED STATES RESPONSE, A KEY FACTOR IS THE TIMING OF THE CONNECTION OF THE MACKENZIE DELTA RESERVES. WITH THIS IN MIND THE BOARD HAS REVIEWED ITS CONCLUSION CONTAINED IN THE REASONS FOR DECISION, NORTHERN PIPELINES, THAT THERE WAS A NEED TO SUPPLEMENT EXISTING RESERVES OF GAS FROM WESTERN CANADA SOMETIME BETWEEN 1982 AND 1985. WHILE RECOGNIZING THAT THERE HAS BEEN CONTINUING EXPLORATION SUCCESS IN THE WESTERN CANADIAN SEDIMENTARY BASIN SINCE THE TIME OF THE BOARD'S REPORT, IT IS THE BOARD'S EXPECTATION THAT A DETAILED REVIEW OF GAS SUPPLY AND DEMAND IN CANADA WHICH WILL UNDOUBTEDLY BE UNDERTAKEN WITHIN THE NEXT YEAR, WILL STILL INDICATE A NEED FOR THE DEMPSTER LATERAL PRIOR TO 1990. IN THE BOARD'S VIEW, THIS RESTRICTS THE CHOICE ON ECONOMIC GROUNDS TO ONE BETWEEN 54-INCH AND 56-INCH DIAMETER PIPE SINCE THESE DIAMETERS ARE THE

EFFICIENT ONES FOR A THROUGHPUT OF 3.6 BCF PER DAY (2.4 FROM ALASKA AND 1.2 FROM THE DELTA) AS CONTEMPLATED IN PARAGRAPH 3(A) OF THE CANADA-U.S. AGREEMENT."

(6) SECTION 10 OF THE AGREEMENT ON PRINCIPLES PROVIDES:

FOR THE PURPOSE OF TESTING AND EVALUATING...
ANY...COMBINATION OF PRESSURE AND DIAMETER
WHICH WOULD ACHIEVE SAFETY, RELIABILITY AND
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ECONOMIC EFFICIENCY FOR OPERATION OF THE PIPELINE. IT IS UNDERSTOOD THAT THE DECISION RELATING TO PIPELINE SPECIFICATIONS REMAINS THE RESPONSIBILITY OF THE APPROPRIATE REGULATORY AUTHORITIES.

(7) SEE APPENDIX III.

(8) SEE APPENDIX I, LETTER OF FEBRUARY 13, 1978 FROM ME TO CHAIRMAN STABBACK, P. 2, AND THE TECHNICAL REPORT ATTACHED THERETO, P. 32.

(9) SEE APPENDIX III, P. 9.

(10) A 56-INCH CAPITAL COST CASE ADDENDUM TO ANNEX III OF THE AGREEMENT MUST BE DEVELOPED DURING THIS PROCESS. WE WILL KEEP YOU FULLY INFORMED OF DEVELOPMENTS. THE COMMISSION IS NOW IN THE PROCESS OF ANALYZING FIGURES SUBMITTED BY THE CANADIANS ON THE COSTS OF A 56-INCH SYSTEM.

(11) OTHER MATTERS OF MUTUAL NEB-FERC INTEREST INCLUDE:

(1) POTENTIAL EXPORTS WHICH COULD SUPPORT PRE-BUILDING SOUTHERN PORTIONS OF THE SYSTEM; AND (2) ISSUES AS TO TARIFF FORMS AND ALLOCATION OF COSTS AND RETURN BETWEEN RATES CHARGED BY AFFILIATED UNITED STATES AND CANADIAN COMPANIES FOR THE TRANSPORTATION OF NATURAL GAS OR OIL THROUGH BOTH COUNTRIES; E.G., NEB'S CURRENT RATE PROCEEDING FOR INTERPROVINCIAL PIPE LINE LIMITED (OIL PIPELINE) VIS-A-VIS FERC'S JURISDICTION OVER THE TRANSPORTATION RATES OF INTERPROVINCIAL'S U.S. SUBSIDIARY, LAKEHEAD PIPELINE COMPANY.

END TEXT OF FOOTNOTES VANCE
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Message Attributes

Automatic Decaptioning: X
Capture Date: 26 sep 1999
Channel Indicators: n/a
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Control Number: n/a
Copy: SINGLE
Draft Date: 24 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
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Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
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Expiration:
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Review Withdrawn Fields: n/a
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Status: NATIVE
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TAGS: ENRG, ECRE, CA, US
To: OTTAWA
Type: TE
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